

AMENDED IN ASSEMBLY SEPTEMBER 3, 1999

AMENDED IN ASSEMBLY JULY 7, 1999

SENATE BILL

No. 559

Introduced by Senator Brulte

February 19, 1999

An act to add Section 511.1 to the Business and Professions Code, to add Section 1395.6 to the Health and Safety Code, to add ~~Sections 10178.3 and 11580.03~~ *Section 10178.3* to the Insurance Code, and to add Section 4609 to the Labor Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, as amended, Brulte. Health care providers: preferred rates.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Corporations. Under existing law, a willful violation of health care service plan requirements is a crime. Existing law also provides for the regulation of insurers by the Department of Insurance.

~~This bill would provide that a payor, as defined, is not entitled to claim or pay a preferred rate for health care services provided by health care providers to beneficiaries, unless the payor is a qualified payor meeting certain conditions, effective July 1, 2000, with respect to contracts providing for the payment of preferred reimbursement rates by payors for health care services rendered by health care providers, would impose certain disclosure and related~~

requirements on contracting agents, as defined, who sell, lease, assign, transfer, or convey a list of contracting providers and their contracted preferred reimbursement rates to other payors or contracting agents. This bill would impose certain requirements on payors who seek to pay a preferred reimbursement rate, and would provide that the failure to comply with these requirements renders the payor liable to pay the nonpreferred rate, as specified. This bill would define “payor” for these purposes to generally include a health care service plan, a specialized health care service plan, a disability or liability insurer ~~that provides coverage for hospital, medical, or surgical expenses,~~ a workers’ compensation insurer, an employer, or any other 3rd party that is responsible to pay for health care services provided to beneficiaries by health care providers. This bill would enact other related provisions.

Because a willful violation of the bill’s requirements with respect to health care service plans would be a crime, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 511.1 is added to the Business~~
- 2 *SECTION 1. Section 511.1 is added to the Business*
- 3 *and Professions Code, to read:*
- 4 *511.1. (a) In order to prevent the improper selling,*
- 5 *leasing, or transferring of a health care provider’s*
- 6 *contract, it is the intent of the Legislature that every*
- 7 *arrangement that results in any payor paying a health*
- 8 *care provider a reduced rate for health care services*
- 9 *based on the health care provider’s participation in a*

1 network or panel shall be disclosed to the provider in
2 advance and shall actively encourage patients to use the
3 network, unless the health care provider agrees to
4 provide discounts without that active encouragement.

5 (b) Beginning July 1, 2000, every contracting agent
6 that sells, leases, assigns, transfers, or conveys its list of
7 contracted health care providers and their contracted
8 reimbursement rates to a payor or another contracting
9 agent shall, upon entering or renewing a provider
10 contract, do all of the following:

11 (1) Disclose whether the list of contracted providers
12 may be sold, leased, transferred, or conveyed to other
13 payors or other contracting agents, and specify whether
14 those payors or contracting agents include workers'
15 compensation insurers or automobile insurers.

16 (2) Disclose what specific practices, if any, payors
17 utilize to actively encourage a payor's beneficiaries to use
18 the list of contracted providers when obtaining medical
19 care that entitles a payor to claim a contracted rate. For
20 purposes of this paragraph, a payor is deemed to have
21 actively encouraged its beneficiaries to use the list of
22 contracted providers if one of the following occurs:

23 (A) The payor offers its beneficiaries direct financial
24 incentives to use the list of contracted providers when
25 obtaining medical care. "Financial incentives" means
26 reduced copayments, reduced deductibles, premium
27 discounts directly attributable to the use of a provider
28 panel, or financial penalties directly attributable to the
29 nonuse of a provider panel.

30 (B) The payor provides information directly to
31 beneficiaries advising them of the existence of the list of
32 contracted providers through the use of a variety of
33 advertising or marketing approaches that supply the
34 names, addresses, and telephone numbers of contracted
35 providers to beneficiaries in advance of their selection of
36 a health care provider, which approaches may include,
37 but are not limited to, the use of provider directories, or
38 the use of toll-free telephone numbers or internet website
39 addresses supplied directly to every beneficiary.
40 However, internet website addresses alone shall not be

1 *deemed to satisfy the requirements of this subparagraph.*
2 *Nothing in this subparagraph shall prevent contracting*
3 *agents or payors from providing only listings of providers*
4 *located within a reasonable geographic range of a*
5 *beneficiary.*

6 *(3) Disclose whether payors to which the list of*
7 *contracted providers may be sold, leased, transferred, or*
8 *conveyed may be permitted to pay a provider's*
9 *contracted rate without actively encouraging the payors'*
10 *beneficiaries to use the list of contracted providers when*
11 *obtaining medical care.*

12 *(4) Disclose, upon the initial signing of a contract, and*
13 *within 30 calendar days of receipt of a written request*
14 *from a provider or provider panel, a payor summary of all*
15 *payors currently eligible to claim a provider's contracted*
16 *rate due to the provider's and payor's respective written*
17 *agreements with any contracting agent.*

18 *Nothing in this subdivision shall be construed to require*
19 *a payor to actively encourage the payor's beneficiaries to*
20 *use the list of contracted providers when obtaining*
21 *medical care in the case of an emergency.*

22 *(c) A contracting agent shall allow providers, upon the*
23 *initial signing, renewal, or amendment of a provider*
24 *contract, to decline to be included in any list of contracted*
25 *providers that is sold, leased, transferred, or conveyed to*
26 *payors that do not actively encourage the payors'*
27 *beneficiaries to use the list of contracted providers when*
28 *obtaining medical care as described in paragraph (2) of*
29 *subdivision (b). Each provider's election under this*
30 *subdivision shall be binding on every contracting agent*
31 *or payor that buys, leases, or otherwise obtains a list of*
32 *contracted providers.*

33 *(d) A provider shall not be excluded from any list of*
34 *contracted providers that is sold, leased, transferred, or*
35 *conveyed to payors that actively encourage the payors'*
36 *beneficiaries to use the list of contracted providers when*
37 *obtaining medical care, based upon the provider's refusal*
38 *to be included on any list of contracted providers that is*
39 *sold, leased, transferred, or conveyed to payors that do*



1 *not actively encourage the payors' beneficiaries to use the*
2 *list of contracted providers when obtaining medical care.*

3 *(e) A payor shall provide an explanation of benefits or*
4 *explanation of review that identifies the name of the plan*
5 *or network that has a written agreement signed by the*
6 *provider whereby the payor is entitled, directly or*
7 *indirectly, to pay a preferred rate for the services*
8 *rendered.*

9 *(f) A payor shall demonstrate that it is entitled to pay*
10 *a contracted rate within 30 business days of receipt of a*
11 *written request from a provider who has received a claim*
12 *payment from the payor. The failure of a payor to do so*
13 *shall render the payor liable for the amount that the*
14 *payor would have been required to pay pursuant to the*
15 *contract between the payor and the beneficiary, which*
16 *amount shall be due and payable within 10 days of receipt*
17 *of written notice from the provider, and shall bar the*
18 *payor from taking any future discounts from that*
19 *provider without the provider's express written consent*
20 *until the payor can demonstrate to the provider that it is*
21 *entitled to pay a contracted rate as provided in this*
22 *subdivision. A payor shall be deemed to have*
23 *demonstrated that it is entitled to pay a contracted rate*
24 *if it complies with either of the following:*

25 *(1) Discloses the name of the network that has a*
26 *written agreement with the provider whereby the*
27 *provider agrees to accept discounted rates, and describes*
28 *the specific practices the payor utilizes to comply with*
29 *paragraph (2) of subdivision (b).*

30 *(2) Identifies the provider's written agreement with a*
31 *contracting agent whereby the provider agrees to be*
32 *included on lists of contracted providers sold, leased,*
33 *transferred, or conveyed to payors that do not actively*
34 *encourage beneficiaries to use the list of contracted*
35 *providers pursuant to subdivision (c).*

36 *(g) For the purposes of this section, the following*
37 *terms have the following meanings:*

38 *(1) "Beneficiary" means:*

39 *(A) For workers' compensation, an employee seeking*
40 *health care services for a work-related injury.*

1 (B) For automobile insurance, a named insured.

2 (C) For group or individual health care coverage
3 through a health care service plan or a disability insurer,
4 a subscriber or an insured.

5 (2) “Contracting agent” means an individual or entity,
6 including, but not limited to, a third-party administrator
7 or trust, a preferred provider organization, or an
8 independent practice association, while engaged, for
9 monetary or other consideration, in the act of selling,
10 leasing, transferring, assigning, conveying, or arranging
11 the availability of a provider or provider panel to provide
12 health care services to beneficiaries. For purposes of this
13 section, a contracting agent shall not include a health care
14 service plan, a specialized health care service plan, an
15 insurer licensed under the Insurance Code to provide
16 disability, life, automobile, or workers’ compensation
17 insurance, or a self-insured employer.

18 (3) Except as otherwise provided in this paragraph,
19 “payor” means a health care service plan, a specialized
20 health care service plan, an insurer licensed under the
21 Insurance Code to provide disability, life, automobile, or
22 workers’ compensation insurance, a self-insured
23 employer, a third-party administrator or trust, or any
24 other third party that is responsible to pay for health care
25 services provided to beneficiaries. However, for purposes
26 of subdivisions (e) and (f), a payor shall not include a
27 health care service plan, a specialized health care service
28 plan, an insurer licensed under the Insurance Code to
29 provide disability, life, automobile, or worker’s
30 compensation insurance, or a self-insured employer.

31 (4) “Payor summary” means a written summary that
32 includes the payor’s name and the type of plan, including,
33 but not limited to, a group health plan, an automobile
34 insurance plan, and a workers’ compensation insurance
35 plan.

36 (5) “Provider” means any of the following:

37 (A) Any person licensed or certified pursuant to this
38 division.

39 (B) Any person licensed pursuant to the Chiropractic
40 Initiative Act or the Osteopathic Initiative Act.

1 (C) Any person licensed pursuant to Chapter 2.5
2 (commencing with Section 1440) of Division 2 of the
3 Health and Safety Code.

4 (D) A clinic, health dispensary, or health facility
5 licensed pursuant to Division 2 (commencing with
6 Section 1200) of the Health and Safety Code.

7 (E) Any entity exempt from licensure pursuant to
8 Section 1206 of the Health and Safety Code.

9 (i) This section shall become operative on July 1, 2000.

10 SEC. 2. Section 1395.6 is added to the Health and
11 Safety Code, to read:

12 1395.6. (a) In order to prevent the improper selling,
13 leasing, or transferring of a health care provider's
14 contract, it is the intent of the Legislature that every
15 arrangement that results in any payor paying a health
16 care provider a reduced rate for health care services
17 based on the health care provider's participation in a
18 network or panel shall be disclosed to the provider in
19 advance and shall actively encourage patients to use the
20 network, unless the health care provider agrees to
21 provide discounts without that active encouragement.

22 (b) Beginning July 1, 2000, every contracting agent
23 that sells, leases, assigns, transfers, or conveys its list of
24 contracted health care providers and their contracted
25 reimbursement rates to a payor or another contracting
26 agent shall, upon entering or renewing a provider
27 contract, do all of the following:

28 (1) Disclose to the provider whether the list of
29 contracted providers may be sold, leased, transferred, or
30 conveyed to other payors or other contracting agents, and
31 specify whether those payors or contracting agents
32 include workers' compensation insurers or automobile
33 insurers.

34 (2) Disclose what specific practices, if any, payors
35 utilize to actively encourage a payor's subscribers to use
36 the list of contracted providers when obtaining medical
37 care that entitles a payor to claim a contracted rate. For
38 purposes of this paragraph, a payor is deemed to have
39 actively encouraged its subscribers to use the list of
40 contracted providers if one of the following occurs:

1 (A) The payor offers its subscribers direct financial
2 incentives to use the list of contracted providers when
3 obtaining medical care. “Financial incentives” means
4 reduced copayments, reduced deductibles, premium
5 discounts directly attributable to the use of a provider
6 panel, or financial penalties directly attributable to the
7 nonuse of a provider panel.

8 (B) The payor provides information to subscribers
9 advising them of the existence of the list of contracted
10 providers through the use of a variety of advertising or
11 marketing approaches that supply the names, addresses,
12 and telephone numbers of contracted providers to
13 subscribers in advance of their selection of a health care
14 provider; which approaches may include, but are not
15 limited to, the use of provider directories, or the use of
16 toll-free telephone numbers or internet website
17 addresses supplied directly to every subscriber. However,
18 internet website addresses alone shall not be deemed to
19 satisfy the requirements of this subparagraph. Nothing in
20 this subparagraph shall prevent contracting agents or
21 payors from providing only listings of providers located
22 within a reasonable geographic range of a subscriber.

23 (3) Disclose whether payors to which the list of
24 contracted providers may be sold, leased, transferred, or
25 conveyed may be permitted to pay a provider’s
26 contracted rate without actively encouraging the payors’
27 subscribers to use the list of contracted providers when
28 obtaining medical care.

29 (4) Disclose, upon the initial signing of a contract, and
30 within 30 calendar days of receipt of a written request
31 from a provider or provider panel, a payor summary of all
32 payors currently eligible to claim a provider’s contracted
33 rate due to the provider’s and payor’s respective written
34 agreement with any contracting agent.

35 Nothing in this subdivision shall be construed to require
36 a payor to actively encourage the payor’s subscribers to
37 use the list of contracted providers when obtaining
38 medical care in the case of an emergency.

39 (c) A contracting agent shall allow providers, upon the
40 initial signing, renewal, or amendment of a provider

1 contract, to decline to be included in any list of contracted
2 providers that is sold, leased, transferred, or conveyed to
3 payors that do not actively encourage the payors'
4 subscribers to use the list of contracted providers when
5 obtaining medical care as described in paragraph (2) of
6 subdivision (b). Each provider's election under this
7 subdivision shall be binding on every contracting agent
8 or payor that buys, leases, or otherwise obtains a list of
9 contracted providers.

10 (d) A provider shall not be excluded from any list of
11 contracted providers that is sold, leased, transferred, or
12 conveyed to payors that actively encourage the payors'
13 subscribers to use the list of contracted providers when
14 obtaining medical care, based upon the provider's refusal
15 to be included on any list of contracted providers that is
16 sold, leased, transferred, or conveyed to payors that do
17 not actively encourage the payors' subscribers to use the
18 list of contracted providers when obtaining medical care.

19 (e) A payor shall provide an explanation of benefits or
20 explanation of review that identifies the name of the
21 network that has a written agreement signed by the
22 provider whereby the payor is entitled, directly or
23 indirectly, to pay a preferred rate for the services
24 rendered.

25 (f) A payor shall demonstrate that it is entitled to pay
26 a contracted rate within 30 business days of receipt of a
27 written request from a provider who has received a claim
28 payment from the payor. The failure of a payor to do so
29 shall render the payor liable for the amount that the
30 payor would have been required to pay pursuant to the
31 applicable health care service plan contract covering the
32 enrollee, which amount shall be due and payable within
33 10 days of receipt of written notice from the provider, and
34 shall bar the payor from taking any future discounts from
35 that provider without the provider's express written
36 consent until the payor can demonstrate to the provider
37 that it is entitled to pay a contracted rate as provided in
38 this subdivision. A payor shall be deemed to have
39 demonstrated that it is entitled to pay a contracted rate
40 if it complies with either of the following:

1 (1) Discloses the name of the network that has a
2 written agreement with the provider whereby the
3 provider agrees to accept discounted rates, and describes
4 the specific practices the payor utilizes to comply with
5 paragraph (2) of subdivision (b).

6 (2) Identifies the provider's written agreement with a
7 contracting agent whereby the provider agrees to be
8 included on lists of contracted providers sold, leased,
9 transferred, or conveyed to payors that do not actively
10 encourage beneficiaries to use the list of contracted
11 providers pursuant to subdivision (c).

12 (g) For the purposes of this section, the following
13 terms have the following meanings:

14 (1) "Contracting agent" means a health care service
15 plan or a specialized health care service plan, while
16 engaged, for monetary or other consideration, in the act
17 of selling, leasing, transferring, assigning, conveying, or
18 arranging the availability of a provider or provider panel
19 to provide health care services to subscribers.

20 (3) "Payor" means a health care service plan or a
21 specialized health care service plan.

22 (4) "Payor summary" means a written summary that
23 includes the payor's name and the type of plan, including,
24 but not limited to, a group health plan, an automobile
25 insurance plan, and a workers' compensation insurance
26 plan.

27 (5) "Provider" means any of the following:

28 (A) Any person licensed or certified pursuant to
29 Division 2 (commencing with Section 500) of the
30 Business and Professions Code.

31 (B) Any person licensed pursuant to the Chiropractic
32 Initiative Act or the Osteopathic Initiative Act.

33 (C) Any person licensed pursuant to Chapter 2.5
34 (commencing with Section 1440) of Division 2.

35 (D) A clinic, health dispensary, or health facility
36 licensed pursuant to Division 2 (commencing with
37 Section 1200).

38 (E) Any entity exempt from licensure pursuant to
39 Section 1206.

40 (i) This section shall become operative on July 1, 2000.

1 SEC. 3. Section 10178.3 is added to the Insurance
2 Code, to read:

3 10178.3. (a) In order to prevent the improper selling,
4 leasing, or transferring of a health care provider's
5 contract, it is the intent of the Legislature that every
6 arrangement that results in any payor paying a health
7 care provider a reduced rate for health care services
8 based on the health care provider's participation in a
9 network or panel shall be disclosed to the provider in
10 advance and shall actively encourage patients to use the
11 network, unless the health care provider agrees to
12 provide discounts without that active encouragement.

13 (b) Beginning July 1, 2000, every contracting agent
14 that sells, leases, assigns, transfers, or conveys its list of
15 contracted health care providers and their contracted
16 reimbursement rates to a payor or another contracting
17 agent shall, upon entering or renewing a provider
18 contract, do all of the following:

19 (1) Disclose whether the list of contracted providers
20 may be sold, leased, transferred, or conveyed to other
21 payors or other contracting agents, and specify whether
22 those payors or contracting agents include workers'
23 compensation insurers or automobile insurers.

24 (2) Disclose what specific practices, if any, payors
25 utilize to actively encourage a payor's beneficiaries to use
26 the list of contracted providers when obtaining medical
27 care that entitles a payor to claim a contracted rate. For
28 purposes of this paragraph, a payor is deemed to have
29 actively encouraged its beneficiaries to use the list of
30 contracted providers if one of the following occurs:

31 (A) The payor offers its beneficiaries direct financial
32 incentives to use the list of contracted providers when
33 obtaining medical care. "Financial incentives" means
34 reduced copayments, reduced deductibles, premium
35 discounts directly attributable to the use of a provider
36 panel, or financial penalties directly attributable to the
37 nonuse of a provider panel.

38 (B) The payor provides information to beneficiaries
39 advising them of the existence of the list of contracted
40 providers through the use of a variety of advertising or

1 marketing approaches that supply the names, addresses,
2 and telephone numbers of contracted providers to
3 beneficiaries in advance of their selection of a health care
4 provider, which approaches may include, but are not
5 limited to, the use of provider directories, or the use of
6 toll-free telephone numbers or internet website
7 addresses supplied directly to every beneficiary.
8 However, internet website addresses alone shall not be
9 deemed to satisfy the requirements of this subparagraph.
10 Nothing in this subparagraph shall prevent contracting
11 agents or payors from providing only listings of providers
12 located within a reasonable geographic range of a
13 beneficiary.

14 (3) Disclose whether payors to which the list of
15 contracted providers may be sold, leased, transferred, or
16 conveyed may be permitted to pay a provider's
17 contracted rate without actively encouraging the payors'
18 beneficiaries to use the list of contracted providers when
19 obtaining medical care.

20 (4) Disclose, upon the initial signing of a contract, and
21 within 30 calendar days of receipt of a written request
22 from a provider or provider panel, a payor summary of all
23 payors currently eligible to claim a provider's contracted
24 rate due to the provider's and payor's respective written
25 agreements with any contracting agent.

26 Nothing in this subdivision shall be construed to require
27 a payor to actively encourage the payor's beneficiaries to
28 use the list of contracted providers when obtaining
29 medical care in the case of an emergency.

30 (c) A contracting agent shall allow providers, upon the
31 initial signing, renewal, or amendment of a provider
32 contract, to decline to be included in any list of contracted
33 providers that is sold, leased, transferred, or conveyed to
34 payors that do not actively encourage the payors'
35 beneficiaries to use the list of contracted providers when
36 obtaining medical care as described in paragraph (2) of
37 subdivision (b). Each provider's election under this
38 subdivision shall be binding on every contracting agent
39 or payor that buys, leases, or otherwise obtains a list of
40 contracted providers.

(d) A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(e) A payor shall provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(f) A payor shall demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The failure of a payor to do so shall render the payor liable for the amount that the payor would have been required to pay pursuant to the beneficiary's policy with the payor, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(1) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(2) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively

1 encourage beneficiaries to use the list of contracted
2 providers pursuant to subdivision (c).

3 (g) For the purposes of this section, the following
4 terms have the following meanings:

5 (1) “Beneficiary” means:

6 (A) For automobile insurance, a named insured.

7 (B) For group or individual health care coverage
8 through a disability insurer, an insured.

9 (C) For workers’ compensation insurance, an
10 employee seeking health care services for a work-related
11 injury.

12 (2) “Contracting agent” means a self-insured
13 employer or an insurer licensed under this code to
14 provide disability, life, automobile, or workers’
15 compensation insurance, while engaged, for monetary or
16 other consideration, in the act of selling, leasing,
17 transferring, assigning, conveying, or arranging the
18 availability of a provider or provider panel to provide
19 health care services to beneficiaries.

20 (3) “Payor” means a self-insured employer or an
21 insurer licensed under this code to provide disability, life,
22 automobile, or workers’ compensation insurance, that is
23 responsible to pay for health care services provided to
24 beneficiaries.

25 (4) “Payor summary” means a written summary that
26 includes the payor’s name and the type of plan, including,
27 but not limited to, a group health plan, an automobile
28 insurance plan, and a workers’ compensation insurance
29 plan.

30 (5) “Provider” means any of the following:

31 (A) Any person licensed or certified pursuant to
32 Division 2 (commencing with Section 500) of the
33 Business and Professions Code.

34 (B) Any person licensed pursuant to the Chiropractic
35 Initiative Act or the Osteopathic Initiative Act.

36 (C) Any person licensed pursuant to Chapter 2.5
37 (commencing with Section 1440) of Division 2 of the
38 Health and Safety Code.



1 (D) A clinic, health dispensary, or health facility
2 licensed pursuant to Division 2 (commencing with
3 Section 1200) of the Health and Safety Code.

4 (E) Any entity exempt from licensure pursuant to
5 Section 1206 of the Health and Safety Code.

6 (i) This section shall become operative on July 1, 2000.

7 SEC. 4. Section 4609 is added to the Labor Code, to
8 read:

9 4609. (a) In order to prevent the improper selling,
10 leasing, or transferring of a health care provider's
11 contract, it is the intent of the Legislature that every
12 arrangement that results in any payor paying a health
13 care provider a reduced rate for health care services
14 based on the health care provider's participation in a
15 network or panel shall be disclosed to the provider in
16 advance and shall actively encourage patients to use the
17 network, unless the health care provider agrees to
18 provide discounts without that active encouragement.

19 (b) Beginning July 1, 2000, every contracting agent
20 that sells, leases, assigns, transfers, or conveys its list of
21 contracted health care providers and their contracted
22 reimbursement rates to a payor or another contracting
23 agent shall, upon entering or renewing a provider
24 contract, do all of the following:

25 (1) Disclose whether the list of contracted providers
26 may be sold, leased, transferred, or conveyed to other
27 payors or other contracting agents, and specify whether
28 those payors or contracting agents include workers'
29 compensation insurers or automobile insurers.

30 (2) Disclose what specific practices, if any, payors
31 utilize to actively encourage beneficiaries to use the list
32 of contracted providers when obtaining medical care that
33 entitles a payor to claim a contracted rate. For purposes
34 of this paragraph, a payor is deemed to have actively
35 encouraged beneficiaries to use the list of contracted
36 providers if the employer of the beneficiaries provides
37 information directly to beneficiaries advising them of the
38 existence of the list of contracted providers through the
39 use of a variety of advertising or marketing approaches
40 that supply the names, addresses, and telephone numbers

1 of contracted providers to beneficiaries in advance of
2 sustaining a workplace injury, which approaches may
3 include, but are not limited to, the use of provider
4 directories, the use of a posted list of all contracted
5 providers in an area geographically accessible to the
6 posting site, the use of wall cards that direct beneficiaries
7 to a readily accessible listing of those providers at the
8 same location as the wall cards, the use of wall cards that
9 direct beneficiaries to a toll-free telephone number or
10 internet website address, or the use of toll-free telephone
11 numbers or internet website addresses supplied directly
12 to every beneficiary. However, internet website
13 addresses alone shall not be deemed to satisfy the
14 requirements of this subparagraph. Nothing in this
15 subparagraph shall prevent contracting agents or
16 employers from providing only listings of providers
17 located within a reasonable geographic range of a
18 beneficiary.

19 (3) Disclose whether payors to which the list of
20 contracted providers may be sold, leased, transferred, or
21 conveyed may be permitted to pay a provider's
22 contracted rate without actively encouraging the payors'
23 beneficiaries to use the list of contracted providers when
24 obtaining medical care.

25 (4) Disclose, upon the initial signing of a contract, and
26 within 30 calendar days of receipt of a written request
27 from a provider or provider panel, a payor summary of all
28 payors currently eligible to claim a provider's contracted
29 rate due to the provider's and payor's respective written
30 agreements with any contracting agent.

31 Nothing in this subdivision shall be construed to require
32 a payor to actively encourage the payor's beneficiaries to
33 use the list of contracted providers when obtaining
34 medical care in the case of an emergency.

35 (c) A contracting agent shall allow providers, upon the
36 initial signing, renewal, or amendment of a provider
37 contract, to decline to be included in any list of contracted
38 providers that is sold, leased, transferred, or conveyed to
39 payors that do not actively encourage the payors'
40 beneficiaries to use the list of contracted providers when

1 obtaining medical care as described in paragraph (2) of
2 subdivision (b). Each provider's election under this
3 subdivision shall be binding on every contracting agent
4 or payor that buys, leases, or otherwise obtains a list of
5 contracted providers.

6 (d) A provider shall not be excluded from any list of
7 contracted providers that is sold, leased, transferred, or
8 conveyed to payors that actively encourage the payors'
9 beneficiaries to use the list of contracted providers when
10 obtaining medical care, based upon the provider's refusal
11 to be included on any list of contracted providers that is
12 sold, leased, transferred, or conveyed to payors that do
13 not actively encourage the payors' beneficiaries to use the
14 list of contracted providers when obtaining medical care.

15 (e) A payor shall provide an explanation of benefits or
16 explanation of review that identifies the name of the
17 network that has a written agreement signed by the
18 provider whereby the payor is entitled, directly or
19 indirectly, to pay a preferred rate for the services
20 rendered.

21 (f) A payor shall demonstrate that it is entitled to pay
22 a contracted rate within 30 business days of receipt of a
23 written request from a provider who has received a claim
24 payment from the payor. The failure of a payor to do so
25 shall render the payor liable for the lesser of the
26 provider's actual fee or, as applicable, the official medical
27 fee schedule, the official medical-legal fee schedule, or
28 the in-patient fee schedule, which amount shall be due
29 and payable within 10 days of receipt of written notice
30 from the provider, and shall bar the payor from taking
31 any future discounts from that provider without the
32 provider's express written consent until the payor can
33 demonstrate to the provider that it is entitled to pay a
34 contracted rate as provided in this subdivision. A payor
35 shall be deemed to have demonstrated that it is entitled
36 to pay a contracted rate if it complies with either of the
37 following:

38 (1) Discloses the name of the network that has a
39 written agreement with the provider whereby the
40 provide agrees to accept discounted rates, and describes

1 *the specific practices the payor utilizes to comply with*
2 *paragraph (2) of subdivision (b).*

3 *(2) Identifies the provider's written agreement with a*
4 *contracting agent whereby the provider agrees to be*
5 *included on lists of contracted providers sold, leased,*
6 *transferred, or conveyed to payors that do not actively*
7 *encourage beneficiaries to use the list of contracted*
8 *providers pursuant to subdivision (c).*

9 *(g) For the purposes of this section, the following*
10 *terms have the following meanings:*

11 *(1) "Beneficiary" means an employee seeking health*
12 *care services for a work-related injury.*

13 *(2) "Contracting agent" means a self-insured*
14 *employer or an insurer licensed under the Insurance*
15 *Code to provide workers' compensation insurance, while*
16 *engaged, for monetary or other consideration, in the act*
17 *of selling, leasing, transferring, assigning, conveying, or*
18 *arranging the availability of a provider or provider panel*
19 *to provide health care services to beneficiaries.*

20 *(3) "Payor" means a self-insured employer or an*
21 *insurer licensed under the Insurance Code to provide*
22 *workers' compensation insurance.*

23 *(4) "Payor summary" means a written summary that*
24 *includes the payor's name and the type of plan, including,*
25 *but not limited to, a group health plan, an automobile*
26 *insurance plan, and a workers' compensation insurance*
27 *plan.*

28 *(5) "Provider" means any of the following:*

29 *(A) Any person licensed or certified pursuant to*
30 *Division 2 (commencing with Section 500) of the*
31 *Business and Professions Code.*

32 *(B) Any person licensed pursuant to the Chiropractic*
33 *Initiative Act or the Osteopathic Initiative Act.*

34 *(C) Any person licensed pursuant to Chapter 2.5*
35 *(commencing with Section 1440) of Division 2 of the*
36 *Health and Safety Code.*

37 *(D) A clinic, health dispensary, or health facility*
38 *licensed pursuant to Division 2 (commencing with*
39 *Section 1200) of the Health and Safety Code.*

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(h) This section shall become operative on July 1, 2000.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

and Professions Code, to read:

~~511.1. (a) As used in this section, the following terms have the following meanings:~~

~~(1) "Beneficiary" means an individual who receives health care services from a provider, which services are paid for by a payor.~~

~~(2) "Contracting agent" means an individual or entity that, for monetary or other consideration, sells, leases, assigns, transfers, or otherwise conveys or arranges the availability of a provider or provider panel to provide health care services to beneficiaries. A contracting agent may include, but is not limited to, a health care service plan, a specialized health care service plan, a third-party administrator, a preferred provider organization, an independent practice association, or a medical group.~~

~~(3) "Eligible beneficiary" means a beneficiary whose care is being paid for by a qualified payor pursuant to a program that provides direct financial incentives to the eligible beneficiary for utilizing a provider or provider panel, and who is able to present, at the time of service, a current identification card issued by the payor, or is otherwise able to reasonably demonstrate, at the time of service, current eligibility to receive health care service at the preferred rate. "Financial incentives" means reduced copayments, reduced deductibles, or premium discounts directly attributable to the use of a provider panel.~~

1 ~~(4) “Payor” means a health care service plan, a~~
2 ~~specialized health care service plan, a disability or liability~~
3 ~~insurer that provides coverage for hospital, medical, or~~
4 ~~surgical expenses, a workers’ compensation insurer, an~~
5 ~~employer, or any other third party that is responsible to~~
6 ~~pay for health care services provided to beneficiaries.~~

7 ~~(5) “Payor summary” means a written summary that~~
8 ~~includes, but is not limited to, all of the following:~~

9 ~~(A) The payor’s name.~~

10 ~~(B) The type of plan, including, but not limited to, a~~
11 ~~group health plan, an automobile insurance plan, and a~~
12 ~~workers’ compensation plan.~~

13 ~~(C) The type of payor, including, but not limited to, a~~
14 ~~health care service plan, a specialized health care service~~
15 ~~plan, a disability, liability, or workers’ compensation~~
16 ~~insurer, or a self-insured employer.~~

17 ~~(D) The financial incentives, if any, to beneficiaries to~~
18 ~~seek care from a provider panel.~~

19 ~~(E) The type of coverage, including, but not limited~~
20 ~~to, chiropractic, hospitalization, medical, dental, and~~
21 ~~vision coverage.~~

22 ~~(F) The method by which to identify eligible~~
23 ~~beneficiaries.~~

24 ~~(G) The method by which to verify eligibility,~~
25 ~~authorization requirements and procedures, copayment~~
26 ~~requirements, and claim submission requirements and~~
27 ~~procedures.~~

28 ~~(6) “Preferred rate” means the rate at which a~~
29 ~~provider has agreed to provide services to eligible~~
30 ~~beneficiaries and to other beneficiaries under the~~
31 ~~conditions specified in this section.~~

32 ~~(7) “Preferred rate agreement” means a written~~
33 ~~agreement between a provider and a contracting agent~~
34 ~~or a payor that clearly states the preferred rate and~~
35 ~~includes a payor summary for each payor entitled to pay~~
36 ~~the preferred rate or clearly describes the types of payors~~
37 ~~and applicable conditions under which a contracting~~
38 ~~agent may offer or extend the preferred rate to a payor~~
39 ~~or other contracting agent.~~

40 ~~(8) “Provider” means any of the following:~~

1 ~~(A) Any person licensed or certified pursuant to this~~
2 ~~division.~~

3 ~~(B) Any person licensed pursuant to the Osteopathic~~
4 ~~Initiative Act.~~

5 ~~(C) Any person licensed pursuant to the Chiropractic~~
6 ~~Initiative Act.~~

7 ~~(D) Any person licensed pursuant to Chapter 2.5~~
8 ~~(commencing with Section 1440) of Division 2 of the~~
9 ~~Health and Safety Code.~~

10 ~~(E) A clinic, health dispensary, or health facility~~
11 ~~licensed pursuant to Division 2 (commencing with~~
12 ~~Section 1200) of the Health and Safety Code.~~

13 ~~(F) Any entity exempt from licensure pursuant to~~
14 ~~Section 1206 of the Health and Safety Code.~~

15 ~~(9) “Provider panel” means a group of providers, each~~
16 ~~of whom has entered into a preferred rate agreement~~
17 ~~with a contracting agent, which agreement permits the~~
18 ~~contracting agent to commit a provider or a provider~~
19 ~~panel to the provision of health care services to eligible~~
20 ~~beneficiaries pursuant to a preferred rate, and to other~~
21 ~~beneficiaries under conditions set forth in this section.~~

22 ~~(10) “Qualified payor” means either of the following:~~

23 ~~(A) A payor who is entitled to pay a preferred rate for~~
24 ~~a provider’s services by virtue of meeting all of the~~
25 ~~following conditions:~~

26 ~~(i) The payor has entered into either a preferred rate~~
27 ~~agreement with the provider, or the payor has entered~~
28 ~~into a written agreement with a contracting agent, which~~
29 ~~written agreement clearly discloses the parties to the~~
30 ~~preferred rate agreement, and which directly or~~
31 ~~indirectly qualifies the payor to receive the preferred~~
32 ~~rate.~~

33 ~~(ii) The preferred rate shall apply only to claims for~~
34 ~~eligible beneficiaries.~~

35 ~~(iii) The preferred rate shall only apply prospectively~~
36 ~~to services rendered after the effective date of the~~
37 ~~written agreement described in clause (i).~~

38 ~~(iv) The payor provides an explanation of benefits that~~
39 ~~identifies the specific preferred rate agreement whereby~~

~~the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.~~

~~(B) A payor who has been specifically authorized, by a written agreement signed by a provider who has received a payor summary, to pay the provider's preferred rate for services to the payor's beneficiaries. The preferred rate in this case shall apply only prospectively to services rendered after the effective date of the written agreement and only if the payor provides an explanation of benefits that identifies the specific preferred rate agreement whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.~~

~~(b) No payor shall be entitled to claim or pay a preferred rate for health care services to beneficiaries, unless the payor is a qualified payor.~~

~~(c) A contracting agent shall disclose, within 30 days of receipt of a written request from a provider or a provider panel, the payor summary of each payor with whom it has directly contracted, or the name, address, telephone number, and contact name of each contracting agent with whom it has directly contracted.~~

~~(d) A contracting agent shall not terminate, limit, nonrenew, or otherwise impair any existing contract or employment of a provider, or the participation of a provider on a provider panel on the basis that the provider refuses to contract with additional payors pursuant to the provisions of subparagraph (B) of paragraph (10) of subdivision (a).~~

~~(e) A payor who has not complied with the conditions of subparagraph (A) or (B) of paragraph (10) of subdivision (a) shall pay the provider's standard nondiscounted reasonable charges for services rendered to beneficiaries. A payor shall reasonably demonstrate that it is entitled to pay a preferred rate by virtue of being a qualified payor within 30 days of receipt of a written request from a provider. The failure of a payor to reasonably and timely demonstrate that it is entitled to pay a preferred rate shall render the payor liable for the amount the provider would have been entitled to be paid~~

~~absent any preferred rate agreement, which amount shall be due and payable within 10 days of receipt of written notice from the provider that a payor has not reasonably and timely demonstrated its entitlement to a preferred rate.~~

~~(f) If a provider is required to take legal action to collect its standard reasonable charges based on the requirements of this section, it shall be entitled to the greater of five hundred dollars (\$500) or an amount that is twice the amount the provider would have been entitled to be paid absent any preferred rate agreement, in addition to reasonable attorney's fees and costs.~~

~~(g) Nothing in this section is intended to interfere with a payor's right to establish or determine eligibility or coverage of a beneficiary.~~

~~SEC. 2. Section 1395.6 is added to the Health and Safety Code, to read:~~

~~1395.6. A health care service plan or a specialized health care service plan that is a payor, as defined in paragraph (4) of subdivision (a) of Section 511.1 of the Business and Professions Code, shall comply with the requirements of that section.~~

~~SEC. 3. Section 10178.3 is added to the Insurance Code, to read:~~

~~10178.3. A disability insurer that provides coverage for hospital, medical, or surgical expenses and that is a payor, as defined in paragraph (4) of subdivision (a) of Section 511.1 of the Business and Professions Code, shall comply with the requirements of that section.~~

~~SEC. 4. Section 11580.03 is added to the Insurance Code, to read:~~

~~11580.03. A liability insurer that provides coverage for hospital, medical, or surgical expenses and that is a payor, as defined in paragraph (4) of subdivision (a) of Section 511.1 of the Business and Professions Code, shall comply with the requirements of that section.~~

~~SEC. 5. Section 4609 is added to the Labor Code, to read:~~

~~4609. A workers' compensation insurer or a self insured employer that is a payor, as defined in~~

1 ~~paragraph (4) of subdivision (a) of Section 511.1 of the~~
2 ~~Business and Professions Code, shall comply with the~~
3 ~~requirements of that section.~~

4 ~~SEC. 6. No reimbursement is required by this act~~
5 ~~pursuant to Section 6 of Article XIII B of the California~~
6 ~~Constitution because the only costs that may be incurred~~
7 ~~by a local agency or school district will be incurred~~
8 ~~because this act creates a new crime or infraction,~~
9 ~~eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section~~
11 ~~17556 of the Government Code, or changes the definition~~
12 ~~of a crime within the meaning of Section 6 of Article~~
13 ~~XIII B of the California Constitution.~~

